

Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:INTL:B06

PLR-125985-11

Date:

January 13, 2012

Legend

Taxpayer =

Parent =

Law Firm =

Accounting Firm =

Shareholder =

Date 1 =

Date 2 =

Date 3 =

Dear :

This replies to your letter dated May 25, 2011, in which you request on behalf of Taxpayer an extension of time under Treas. Reg. § 301.9100-3(a) to file a Form 4876-A ("Election To Be Treated as an Interest Charge DISC") effective as of Date 1. The information submitted for consideration is substantially as set forth below.

Taxpayer is a domestic corporation wholly owned by Parent, a domestic corporation. Parent is wholly owned by Shareholder, a U.S. resident individual. Taxpayer, Parent, and Shareholder each have a calendar taxable year.

Prior to Date 1, Shareholder and Parent consulted Accounting Firm about the tax advantages that interest charge domestic international sales corporations (IC-DISCs) may afford. Shareholder and Parent then engaged Accounting Firm to design and implement an arrangement involving an IC-DISC. Accounting Firm engaged Law Firm to set up the IC-DISC.

On Date 1, Taxpayer was incorporated through the filing of its Certificate of Incorporation. At all relevant times, Taxpayer was intended to be an IC-DISC.

On Date 2, about a week after Taxpayer was incorporated, Law Firm sent Parent documents relating to Taxpayer's establishment, including a prepared Form 4876-A to be signed and returned. Law Firm advised Taxpayer of the 90-day deadline for filing the form with the Service to elect IC-DISC status effective as of incorporation. Taxpayer believed the form had been timely filed. However, the form had only been signed and then placed in a file by a staff member of Parent.

On Date 3, about ten months after Taxpayer was incorporated, Accounting Firm discovered in the process of preparing the return that Form 4876-A had not been filed with the Service. Accounting Firm immediately informed Parent and Taxpayer of its discovery. Taxpayer soon found the form in its files. Law Firm then prepared and submitted this ruling request to the Service for an extension of time to file Form 4876-A for Taxpayer's first taxable year.

Section 992(b)(1)(A) provides that an election by a corporation to be treated as a DISC shall be made by such corporation for a taxable year at any time during the 90-day period immediately preceding the beginning of the taxable year, except that the Secretary may give his consent to the making of an election at such other times as he may designate.

Temp. Treas. Reg. § 1.921-1T(b)(1) provides, in part, that a corporation electing IC-DISC status must file Form 4876-A and that a corporation electing to be treated as a IC-DISC for its first taxable year shall make its election within 90 days after the beginning of that year.

Treas. Reg. § 301.9100-1(c) provides, in part, that the Commissioner, in exercising the Commissioner's discretion, may grant a reasonable extension of time under the rules set forth in Treas. Reg. §§ 301.9100-2 and 301.9100-3 to make a regulatory election under all subtitles of the Code except subtitles E, G, H, and I.

Treas. Reg. § 301.9100-1(b) provides that a regulatory election is an election whose due date is prescribed by a regulation published in the Federal Register, or a revenue ruling, revenue procedure, notice, or announcement published in the Internal Revenue Bulletin. For this purpose, an election includes an application for relief in respect of tax.

Treas. Reg. § 301.9100-3(a) provides that requests for extensions of time for regulatory elections that do not meet the requirements of Treas. Reg. § 301.9100-2 (automatic extensions) must be made under the rules of Treas. Reg. § 301.9100-3. Requests for relief subject to Treas. Reg. § 301.9100-3 will be granted when the taxpayer provides the evidence (including affidavits described in Treas. Reg. § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and that the grant of relief will not prejudice the interests of the Government.

Based on the facts and representations submitted with Taxpayer's ruling request, we conclude that Taxpayer satisfies Treas. Reg. § 301.9100-3(a). Accordingly, Taxpayer is granted an extension of time of 60 days from the date of this ruling letter to file Form 4876-A. Such filing will be treated as a timely election to be treated as an IC-DISC for Taxpayer's first taxable year beginning Date 1. The granting of an extension of time to make the election is not a determination that Taxpayer is otherwise eligible to make the election or to claim DISC status or benefits.

The ruling contained in this letter is based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

Sincerely,

Christopher J. Bello
Chief, Branch 6
Office of the Associate Chief Counsel
(International)

Enclosures:
Copy of letter
Copy for section 6110 purposes

cc: